

TEXT OF PROPOSED REGULATIONS

In the following text, ~~strikethrough~~ indicates deleted text; underlining indicates added or amended text.

3043.1. Waiver.

Subsections 3043.1(a) through 3043.1(d) are unchanged.

Subsection 3043.1(e) is amended to read:

(e) A waiver shall not be accepted from an inmate within 30 days of their release date, or if the waiver is retroactive and recomputation of sentence credits would make the inmate overdue for release, or if granting the credit waiver will prevent notification to local law enforcement officials of the release of inmates described in Section 3327(c)(2) in the 45-day time frame required by law.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 273a, 273ab, 273d, 667.5, 832.5, 3058.6, 3058.9, and 5054, Penal Code; Section 19583.5, Government Code; *Wolff v. McDonnell* (1974) 418 U.S. 539, 558-560; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; and Section 35.107, Title 28, Code of Federal Regulations.

Section 3043.7 is adopted to read:

3043.7. Impact of 45-Day Notification on Credit Earnings.

Inmates shall not be placed in a greater credit earning category if it prevents notification to local law enforcement officials of the release of inmates described in Section 3327(c)(2) in the 45-day time frame, as required by Penal Code Sections 3058.6 and 3058.9.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054, 3058.6 and 3058.9, Penal Code

3327. Restoration of Forfeited Credits.

Subsection 3327(a)(1) is unchanged.

Subsection 3327(a)(2) is amended to read:

(2) No credit shall be restored if the inmate is found guilty of any rule violation occurring within the required disciplinary-free periods provided in section 3328.

Subsections 3327(a)(3) through 3327(b)(2) are unchanged.

Subsection 3327(c) is amended to read:

(c) Credit shall be restored at the consideration hearing unless it is determined that the inmate has, since the disciplinary infraction leading to the credit forfeiture, refused or failed to perform in a work, training, or educational assignment during the required disciplinary-free period, or under extraordinary circumstances as described in section 3329 ~~are present~~.

(1) Credit shall not be restored in an amount rendering the inmate overdue for release.

(2) An inmate who is a violent offender as defined in Penal Code (PC) Section 667.5(c), or who is serving a term upon conviction of child abuse pursuant to PC Sections 273a, 273ab, 273d, or any sex offense identified in statutes as being perpetrated against a minor victim, or who is an offender for whom such notification has been ordered by any court shall not be eligible for credit restoration which would result in a notification being provided to local law enforcement in less than 45 days prior to the inmate's scheduled release date.

~~(23)~~ The inmate shall be informed at the hearing that case records staff shall determine the actual release date, which shall include a minimum of ten working days for release processing. However, if the inmate is a violent offender as defined in PC Section 667.5(c) or is serving a term upon conviction of child abuse pursuant to PC Section 273a, 273ab, 273d, or any sex offense identified in statutes as being perpetrated against a minor victim, or for whom such notification has been court ordered, the number of working days for release processing shall be sufficient to ensure that local law enforcement officials will be notified of the inmate's release in not less than the 45-day time frame required by law. A copy of the new legal status sheet reflecting the credit restoration shall be provided to the inmate.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 273a, 273ab, 273d, 667.5, 2932, 2933, 3058.6, 3058.9 and 5054, Penal Code.

3328. Disciplinary-Free Periods.

Subsection 3328(a) is unchanged.

Subsection 3328(b) is amended to read:

(b) An inmate may apply for restoration of 100 percent of any credit forfeited for a Division “D” or “E” offense after remaining ~~the inmate has remained~~ disciplinary free for six months.

~~Exception:~~ (1) If less than six months remain before the inmate’s established release date, a one-time application may be made within 90 days of the established release date when ~~if~~ the inmate has remained disciplinary free for a minimum of ~~the entire period and at least~~ two months.

(2) Violent offenders as defined in PC Section 667.5(c) and offenders serving a term upon conviction of child abuse pursuant to PC Section 273a, 273ab, 273d, or any sex offense identified in statutes as being perpetrated against a minor victim, or for whom such notification has been ordered by any court, shall be eligible for the one-time credit restoration application only if local law enforcement officials can be notified of the inmate’s release in not less than the 45-day time frame required by law.

Subsection 3328(c) is amended to read:

(c) An inmate may apply for restoration of 100 percent of any credit forfeited for a Division “F” offense after remaining ~~the inmate has remained~~ disciplinary free for three months.

~~Exception:~~ (1) If less than three months remain before the inmate’s established release date, a one-time application may be made within 60 days of the established release date when ~~if~~ the inmate has remained disciplinary free for a minimum of ~~the entire period and at least~~ one month.

(2) Violent offenders as defined in PC Section 667.5(c) and offenders serving a term upon conviction of child abuse pursuant to PC Section 273a, 273ab, 273d, or any sex offense identified in statutes as being perpetrated against a minor victim, or for whom such notification has been ordered by any court, shall be eligible for the one-time credit restoration application only if local law enforcement officials can be notified of the inmate’s release in not less than the 45-day time frame required by law.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 273a, 273ab, 273d, 667.5(c), 2932, 2933, 3058.6, 3058.9, and 5054, Penal Code.